



TO: P-12 Education Committee

FROM: Elizabeth R. Berlin *Elizabeth R Berlin*

SUBJECT: Charter Schools: Renewals to Charters Authorized by the Trustees of the State University of New York

DATE: May 23, 2019

AUTHORIZATION(S): *Margaret Elin*

SUMMARY

Issue for Decision

Should the Regents approve the Department's recommendation concerning proposed renewals to the charters of the following two schools authorized by the Trustees of the State University of New York:

1. **Success Academy Charter School – Bed Stuy 1** (Full-term, five year renewal term from 2021 to 2026)
2. **Success Academy Charter School – Upper West** (Full-term, five-year renewal term from 2021 to 2026)

Reason(s) for Consideration

Required by State statute and review of policy.

Proposed Handling

This issue will be before the Board of Regents P-12 Education Committee and the Full Board for action at the June 2019 Regents meeting.

Procedural History

On February 11, 2019, the Trustees of the State University of New York (“the Trustees” or “SUNY”) approved the renewal charters which are being presented to the Board of Regents for approval and issuance pursuant to Article 56 of the Education Law.^{1,2}

Background Information

The Department forwards the proposed renewal charters for the above charter schools, as proposed by SUNY as a charter school authorizer under Article 56 of the Education Law.

Pursuant to Education Law §2852, the Board of Regents has the authority to issue charters to all charter schools in New York State. The process for schools authorized by SUNY is as follows:

- SUNY recommends that the Board of Regents issue a charter renewal or a revision of an existing charter.
- The proposed charter renewal/revision is sent to the Department, and the Board of Regents has 90 days to act or the proposed charter renewal/revision goes into effect by operation of law. In this case, the proposed renewal charters were initially sent to the Department on March 20, 2019.
- Once a proposed charter is received by the Department, the Board of Regents has three options:
 1. Consider the proposed charter and vote on it. If the vote is affirmative, the action is effective immediately, or as otherwise recommended by SUNY.
 2. If the proposed charter is not acted upon, the charter renewal will go into effect by operation of law 90 days after the initial submission to the Department.
 3. If the Board of Regents chooses not to vote in the affirmative, the proposed charter is sent back to SUNY with comments. SUNY must reconsider the recommendation, and can choose to either resubmit the proposed charter to the Board of Regents with modifications, provided that the applicant consents in writing to such modifications, resubmit the proposed charter to the Board of Regents without modifications, or abandon the proposed charter. If the proposed charter is resubmitted to the Board of Regents, for SUNY-authorized charter schools only, the Board of Regents must approve and issue the proposed charter within thirty days of resubmission. If the Board of Regents fails to do so, the charter shall be deemed approved and

¹ At its meeting in April 2017, the Board of Regents voted to return ten SUNY early renewal charters for SUNY’s reconsideration. Thereafter, at its meeting in July 2017, the Board of Regents voted to return nine SUNY early renewal charters for SUNY’s reconsideration. SUNY resubmitted both sets of charters to the Board of Regents without modification.

issued at the expiration of such period. **This action is recommended by the Department for the proposed renewals.**

The Department's recommendation to return the proposed renewal charters is based on Education Law §2851(4), which provides, "[c]harters may be renewed, upon application, for a term of up to five years...."³ It has long been the practice of all authorizers, including the SUNY Trustees, to renew charter schools in the academic year in which their charter term expires in order to ensure the most recent data is being used in the renewal evaluation. In this instance, SUNY is departing from this practice.

The SUNY Trustees renewed the schools on February 11, 2019. As noted above, the schools' current charter terms will end in 2021. Accordingly, the SUNY Trustees' action results in charter terms ending more than five years in the future. It is the Department's position that, based on the relevant provisions of the Charter Schools Act, it is not the intent of the law to allow a charter entity to grant successive future, or early, renewals.

The law requires⁴ the charter entity to make certain specific findings prior to the issuance of a new or renewal charter. In addition, a renewal application must include a report of the progress of the charter school in achieving the educational objectives set forth in the charter, a detailed financial statement, copies of each of the annual reports, and a description of the means by which the school will meet or exceed enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program. Reading the statutory renewal requirements together with the requirement that the term of a proposed renewal may not exceed five years makes clear that intent of the law is to maintain quality charter authorizing practices by ensuring that renewal decisions are based on timely data and information that accurately reflects the charter school's performance and health at the time of commencement of the renewal charter.

For the reasons set forth above, the Department recommends that the Board of Regents return the proposed charters for the two schools set forth above to the SUNY Trustees for reconsideration with the following comment and recommendation: Approving the renewal of any charter school years before the expiration of the charter does not allow timely review of the school's educational and fiscal soundness, community support, legal compliance, or means by which the school will meet or exceed enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program. The charters should be abandoned, and the schools should be directed to resubmit the application no earlier than one year prior to the expiration of the charter term.

³ Also see, Education Law §2853(1)(a), which states "...[u]pon approval of an application to renew a charter, the board of regents shall extend the certificate of incorporation for a term not to exceed five years..."

⁴ Education Law §§ 2851(2) and 2852(2).

Related Regents Items

[April 2017 Return of Proposed Early Renewal Charters](https://www.regents.nysed.gov/common/regents/files/417p12a5.pdf)

(<https://www.regents.nysed.gov/common/regents/files/417p12a5.pdf>)

[July 2017 Return of Proposed Early Renewal Charters](https://www.regents.nysed.gov/common/regents/files/717p12a1.pdf)

(<https://www.regents.nysed.gov/common/regents/files/717p12a1.pdf>)

Recommendation

VOTED: That the Board of Regents return the proposed charters for **Success Academy Charter School – Bed Stuy 1** and **Success Academy Charter School – Upper West** to the Trustees of the State University of New York for reconsideration with the following comment and recommendation: Approving the renewal of any charter school years before the expiration of the charter does not allow timely review of the school’s educational and fiscal soundness, community support, legal compliance, or means by which the school will meet or exceed enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program. The charters should be abandoned, and the schools should be directed to resubmit the application no earlier than one year prior to the expiration of the charter term.

Timetable for Implementation

The Board of Regents action for the above-named charter schools will become effective immediately.